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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/612,551	07/07/2000	Hiroshi Tanabe	NEC WNZ-2212	9380

7590                    12/05/2002  
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EXAMINER

EVANS, GEOFFREY S

ART UNIT                    PAPER NUMBER

1725  
DATE MAILED: 12/05/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/612,551	TANABE ET AL.	
	Examiner	Art Unit	
	Geoffrey S Evans	1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 09 September 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1 and 17-22 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 17-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

<ol style="list-style-type: none"> <li>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3)<input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>11</u>.</li> </ol>	<ol style="list-style-type: none"> <li>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____.</li> <li>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6)<input type="checkbox"/> Other: _____.</li> </ol>
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## DETAILED ACTION

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
2. All of the claims that are currently being examined (claims 1 and 17-22) are system claims. System claims must be analyzed to determine whether the claimed "system" is considered to be an apparatus, process, or product. In analyzing the claims, Independent claims 1 and 22 are considered in this office action to be apparatus claims because most of the limitations in the claims are apparatus limitations. An apparatus claim covers what a device is, not what a device does. See MPEP 2114. Applicant has the responsibility to amend or clarify if Applicant considers or wishes the claims to recite a process and not an apparatus.
3. Claims 1 and 17-22 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the disclosure of a beam homogenizer as disclosed in figures 45 and 46, does not reasonably provide enablement for all possible ways of supplying a light, the light being distributed within a range of plus or minus 11.2% over an area. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. The claims 1 and 17-22 which depend on a recited property (the light being distributed within a range of plus or minus 11.2% over an area), are analogous to a fact situation of In re Hyatt, 708 F.2d 712-715, 218 USPQ 195-197 (Fed Cir. 1983), in that the claim covers every conceivable mechanism

(means) for achieving the stated property (result) while the specification discloses only those known to the inventor. See MPEP Section 2164.08(a).

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 17-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki in Japan Patent No. 6-267,826. Suzuki discloses a projection lens (element 15), a mask (reticle R), and a beam homogenizer with an illuminance homogeneity of 1 percent (see paragraph 45 and figure 4).

6. Applicant's arguments with respect to claims of record have been considered but are moot in view of the new ground(s) of rejection.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Noguchi et al. in U.S. Patent No. 6,071,765, Tanaka in U.S. Patent No. 6,160, 827, Tanaka in U.S. Patent No. 6,304,385 B1, Tanaka in U.S. Patent No. 6,471,772 disclose removing unevenness from the laser beam.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey S Evans whose telephone number is (703)-308-1653. The examiner can normally be reached on Mon-Fri 6:30AM to 4:00 PM, alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (703)-308-3318. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9310 for regular communications and (703)-872-9310 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0661.



Geoffrey S Evans  
Primary Examiner  
Art Unit 1725

GSE  
December 2, 2002